

**WASHINGTON STATE HUMAN RIGHTS COMMISSION
MEETING OF
September 30, 2003**

Sea Tac, WA

Minutes

Commissioners: Charlotte Coker, Chair; Ellis Casson; Dallas Barnes J. Reiko Callner; and Ben Cabildo. A quorum was present.

Staff: Dariush Khaleghi, Acting Executive Director; Tanya Calahan, Clerk of the Commission; Cheryl Strobert; Program Manager; Berneta Walraven; Operations Manager; Susan Carlson; Paul Goulding; and Michael Tribble, Assistant Attorneys General.

Guests: No guests were present.

OPENING AND WELCOME

(Audio tape one – side one)

Commissioner Coker called the meeting to order at 9:02 a.m. She welcomed Ben Cabildo of Spokane, the newest Commissioner of the Washington State Human Rights Commission.

Commissioner Cabildo expressed his appreciation for being part of the Commission. Commissioner Cabildo got his start in Seattle. He has been a community organizer for over 30 years. He founded AHANA Business and Professional Association and is currently the executive director of this organization. AHANA stands for African American, Hispanic, Asian, and Native American. It's a support system for minority owned businesses.

The Commissioners and staff introduced themselves and shared information about their background and history with the Commission.

APPROVAL OF MINUTES

The Commissioners considered the minutes of the August 29, 2003 Commission meeting. Commissioner Barnes requested that the Clerk amend the minutes to reflect on page four paragraph 10 that he opposed the motion to move the October 23-24, 2003 Pasco Commission meeting to Sea Tac.

Commissioner Casson then made a motion to approve the minutes of the August 29, 2003 Commission meeting with the amendment. Commissioner Callner seconded the motion. MOTION CARRIED.

Tanya Calahan reviewed the follow up items from the August 29, 2003 Commission meeting.

APPROVAL OF CASE CLOSURES

Commissioner Callner asked about several cases.

Commissioner Callner requested further explanation regarding the case of Lowery v. Residential Management Inc.

Operations Manager Berneta Walraven explained that Respondent owner claimed that the Complainant violated her lease by having an unauthorized tenant. A link could not be established between complainant's harm and her familial status.

Commissioner Callner asked about confidentiality of information in case files. Staff clarified that with the exception of exempt private information, other information in the file is public. She suggested referring the complainant in this case to NW Women's Law Center or another appropriate entity.

Commissioner Callner asked about the Sierra v. Spokane Addiction Recovery Center case. Since complainant has the same protections as if he were in a regular residence; Commissioner Callner expressed concern about respondent evicting Complainant for violating an unwritten pet rule with a three day notice.

Operations Manager Berneta Walraven suggested that the Commission write a letter to Respondent in this case and suggest that they have a consistent and clearer no pet rule.

Assistant Attorney General Susan Carlson suggested a letter that emphasizes the Law Against Discrimination and obligations for accommodating disabilities instead directing Respondent to change their rules. Ms. Walraven will draft a letter to Respondent in the case of Sierra v. Spokane Addiction Recovery Center.

Commissioner Barnes asked about Cuevas v. Iowa Beef. When complainant was called a year later for a rebuttal, he was angry and used derogatory language. The Commission then closed the case for failure to cooperate. Commissioner Barnes suggested that staff reexamine how the agency deals with these kinds of cases in the future; especially if the agency is partly responsible for the delay in investigating cases.

There was discussion about complainants' right to sue in court. Clerk Tanya Calahan explained that she receives questions about the right to sue in federal court and state court. Some people are confused about their right to sue in court and how much time they have to do so.

Commissioner Callner suggested and the other Commissioners concurred that complainants should be notified up front that their right to sue in court is not stayed by Commission's investigation. Staff will follow up on this.

Commissioner Cabildo commented about the number no reasonable cause findings. He suggested that the agency be more proactive in providing educational opportunities to complainants about the complaint process. Individuals file for legitimate reasons in their minds but we find no reasonable cause. He commented about educating individuals about what they need to do to document their complaints, witnesses, and evidence.

Operations Manager Berneta Walraven commented that a preponderance of evidence to show discrimination occurred is not always present in most cases, which makes discrimination difficult to prove.

The agency works to educate employers, employees, and others statewide, as well as partner with community groups on outreach and educational opportunities. Equal Opportunity Compliance Specialists assist in this effort.

Commissioner Barnes asked about noting on the finding that there is a site visit; for example, using a "T" for telephone interviews. He thinks that site visits give more credibility to cases. Program Manager Cheryl Strobert stated there is sometimes a combination of site visits and telephone interviews done during investigations.

There was discussion about the purpose of documenting telephone and site interviews. Commissioner Callner commented about how she conducts investigations at her place of work. She commented that individuals would feel much better if face to face interviews were done and individuals would feel much better about her agency. However the cases wouldn't be completed timely and more tax payer dollars would be expended to do this.

Commissioner Coker asked about the Warnock v. Behavioral Health Resources no reasonable cause finding. The hire date is listed September 17, 2002 but the finding states that complainant suffered an aneurysm on May 18, 2002, which is before complainant was hired. She requested that staff clarify whether the dates are a

typographical error. The case will be set aside until Operations Manager Regina Hook can be consulted regarding the language in the finding.

(Audio tape - one side two)

Commissioner Callner made a motion to approve category one and two cases with the exception of Warnock v. Behavioral Health Resources. Commissioner Barnes seconded the motion. MOTION CARRIED.

AGENCY UPDATE

Acting Executive Director Dariush Khaleghi spoke about agency activities. The agency is on track to meet EEOC and HUD contracts.

Special Assistant Idolina Reta is tracking customer complaints. There hasn't been that many complaints lately. Thirty percent (30%) of the complaints that were received were about rudeness and lack of response by staff.

Ms. Reta commented that she is also tracking positives comments about employees.

REVIEW AND APPROVAL OF LETTER TO STATE AUDITOR

The Commissioners and staff discussed the proposed conciliation failure process and draft letter to the Washington State Auditor's office regarding the agency's conciliation failure process. Complaint parties will be notified in writing when conciliation efforts fail. Language will be added to the draft letter to reflect the Commission's appreciation for the Auditor's office's professionalism during their investigation. The letter will be signed by Commissioner Coker.

Commissioner Callner made a motion to approve the letter to the Auditor's office with the additional language. Commissioner Casson seconded the motion. MOTION CARRIED.

ADMINISTRATIVE HEARING PROCESS

Tanya Calahan explained the reasonable cause process and the Commission Clerk's role in the process.

The Clerk of the Commission serves as the Clerk of Administrative Hearings and transmits cases to the Attorney General's office for litigation.

Assistant Attorneys General Paul Goulding and Michael Tribble of the Office of the Attorney General (AG) spoke about their role in the litigation and administrative hearing process. They litigate discrimination complaints on behalf of the Commission.

Discussion took place regarding bettering communication between the AG's office and the Commission when the AG's office recommends action on cases. The AG's office is now using case memos to recommend closure of cases. It's a more formal process to document their reasoning for recommending closure of the Commission's cases.

Paul Goulding discussed the Campbell v. Timberlane case. The Commission won a decision at hearing before an administrative law judge. However, the case was appealed to Superior Court. It was now in Division II of the Court of Appeals.

Tanya Calahan commented about the lack of communication to the Commission about cases from the beginning to end; especially when cases are litigated. Commissioner Callner commented about the Commission needing more information regarding cases after reasonable cause is found and the need for more Commission involvement in the process.

Several comments and suggestions were discussed regarding communicating information to the Commissioners about reasonable cause cases.

Updates on cases from the AG's office can be given to the Commission every quarter. There can be more publicity regarding successfully settled or litigated cases. Commissioner Callner suggested that the Commission use a list of accomplishments to publicize the agency's successes during outreach presentations.

(Audio tape two – side one)

RECONSIDERATION PROCESS

Operations Manager Berneta Walraven spoke about the reconsideration process on behalf of the Operations Managers. She commented about the ineffectiveness of the reconsideration process and proposes that the Commission eliminate it.

Commissioner Callner commented about the value of having a human factor and face to face interaction with complainants.

Commissioner Coker requested that the reconsideration process be placed on the October 2003 Commission meeting agenda. At least 30 minutes should be devoted to this process.

Commissioner Callner wants feedback from people that have had reconsiderations in the past.

Commissioner Coker suggested that Management present information to the Commissioners with specific proposals regarding the reconsideration process for the Commissioners to consider.

OTHER ITEMS

Commissioner Callner attended the “Women as Peacemakers” luncheon in Seattle recently. About 100-150 people attended the event. A panel of four women spoke. The panel members articulated their personal experiences and struggles and spoke about the tools that they used that were successful. Commissioner Callner commented about the experiences shared by some of the speakers.

Commissioner Barnes spoke about the Immigrant Worker Freedom Ride. There was a stop in Yakima. There was a rally in Pasco. He rode the bus and spoke to participants on the bus ride from Pasco and the Tri Cities to Seattle. The event brought attention to the plight of immigrant workers and the injustices that they experienced.

The Commissioners considered the case Warnack v. Behavioral Health Resources. The date of hire for complainant in finding of fact number two (2) was incorrect. It should read 1998 instead of 2002. Staff corrected the finding. Commissioner Casson made a motion to approve the finding with the correction. Commissioner Callner seconded the motion. MOTION CARRIED.

(Audio tape three – side one)

RECONSIDERATIONS

Skjonsby v. Evergreen Manor Inc. Complainant appeared in person. Respondent was not present. Program Manager Cheryl Strobert provided a summary of the case.

Complainant described his job history with Respondent. He stated that Respondent denied him an accommodation by not allowing him to have a quiet room. A non-sighted individual received a private office as an accommodation.

Ms. Strobert pointed out that witness information was not provided during the investigation however, complainant disputes that. She further pointed out that the threshold of whether an accommodation request was made is still an issue. Since no formal accommodation request was made, the petition should be denied.

Complainant stated that his witnesses were present when he made an accommodation request.

Commissioner Coker made a motion to grant reconsideration to interview Ms. Swanberg and complainant other witness (the non-sighted individual) to speak to whether the witnesses had first hand knowledge about complainant making an accommodation request. They should also speak to whether or not it was a requirement to have sessions in the open dining area. Commissioner Casson seconded the motion. MOTION CARRIED.

Nadal v. Island Court Condo. Complainant appeared in person. Christine Yokan appeared in person on behalf of Respondent. Program Manager Cheryl Strobert provided a summary of the case.

Complainant claims that his witnesses weren't interviewed. He claims that he's the only black tenant in the building and does not have a key to the third floor laundry room.

Christine Yokan commented that complainant made unreasonable requests and that he and she mutually agreed to terminate complainant's lease. She stated that she received complaints about loud noises during complainant's tenancy.

Commissioner Callner made a motion to deny complainant's petition. Commissioner Barnes seconded the motion. MOTION CARRIED.

(Audio tape three – side two)

Joseph O'Hearn v. Lang Manufacturing Co. Complainant did not participate. Brandon Chun appeared on behalf of Respondent. Program Manager Cheryl Strobert provided a summary of the case. Commissioner Callner made a motion to deny complainant's petition. Commissioner Cabildo seconded the motion. MOTION CARRIED.

Robin Bailey v. Hillside Village Apts. Robin Bailey appeared in person. Respondent did not participate. Program Manager Cheryl Strobert provided a summary of the case.

Complainant stated that her key witnesses were not interviewed including the witness at "Section 8". Her witnesses are Juanita MacIntosh, Sabrina Shields, and Yanni Shields.

Complainant claims that the investigator did not present the proper release and formal request for the Housing Authority to release information regarding her situation.

Commissioner Casson made a motion to grant complainant's petition to interview complainant's witnesses. Commissioner Callner seconded the motion. MOTION CARRIED.

Lorna Grube v. Grays Harbor County. Neither party participated. Program Manager Cheryl Strobert provided a summary of the case.

After discussion, Commissioner Casson made a motion to deny complainant's petition. Commissioner Callner seconded the motion. MOTION CARRIED.

Margaret Hopstein v. WA State DSHS. Neither party participated. Program Manager Cheryl Strobert provided a summary of the case. Commissioner Callner asked why irrelevant information put in the finding i.e., Soviet American reference. This information did not appear to be necessary. She then made a motion to deny

complainant's petition. Commissioner Cabildo seconded the motion. MOTION CARRIED.

Michael Krall v. NetVersant NW. Neither party participated. Program Manager Cheryl Strobert summarized the case. No new or relevant information was provided that would change the finding. Commissioner Callner made a motion to deny complainant's petition. Commissioner Barnes seconded the motion. MOTION CARRIED.

Geoffrey Lawson v. AT&T Wireless. Neither party participated. Program Manager Cheryl Strobert provided a summary of the case. Commissioner Casson made a motion to deny complainant's petition. Commissioner Callner seconded the motion. MOTION CARRIED.

Anthony Smith v. Lamps Plus. Neither party participated. Cheryl Strobert provided a summary of the case. Commissioner Callner made a motion to deny complainant's petition. Commissioner Casson seconded the motion. MOTION CARRIED.

Terry Squier v. Somerset Village. Neither party participated. Cheryl Strobert provided a summary of the case. Commissioner Barnes asked how persons with disabilities such as complainant's are accommodated. Ms. Strobert commented that it's done on a case by case basis. Staff can't make an assumption that a person with a disability needs more accommodation if they don't ask for one. Commissioner Casson made a motion to deny complainant's petition. Commissioner Callner seconded the motion. Commissioner Barnes abstained. MOTION CARRIED.

Donna Tjaden v. Snoqualmie Market. Neither party participated. Cheryl Strobert summarized the case. Commissioner Callner made a motion to deny complainant's petition. Commissioner Cabildo seconded the motion. MOTION CARRIED.

COMMISSION MEETING SCHEDULE

Commissioner Coker suggested that the Commission hold two forums per year. Tanya Calahan pointed out that a 2004 schedule needs to be submitted to the Office of the Code Reviser for filing soon.

Commissioner Callner provided background information about Commission meetings. Many meetings that were held around the state had no one in the audience so the Commission is looking at different ways to have more effective meetings.

Commissioner Cabildo commented about partnering with community organizations on issues such as racial profiling in Spokane.

Commissioner Casson commented about going out in the community like the Commission did in Spokane when the Commissioners visited local schools. He suggested going out in the field with migrant workers to experience what they experience.

Commissioner Casson requested that the 2004 schedule be done by the Acting Executive Director Dariush Khaleghi based on the budget. He requested that Mr. Khaleghi make suggestions based on the budget.

Commissioner Callner will assist Mr. Khaleghi by communicating the Commission's expectations regarding the 2004 Commission meeting schedule.

EXECUTIVE DIRECTOR SEARCH

Commissioner Barnes provided an update regarding the Executive Director search.

The Commissioners discussed how many resumes they want to review and what process they want to use to review them. They also discussed questions that could be asked during the screening process.

The Commissioners will review 20-25 resumes at an executive session on Thursday, October 23, 2003.

The Commissioners will review the draft supplemental questions and screening matrix and submit their comments to Jean Ciallella to forward to Executive Search Services by October 8, 2003.

There being no further business, the meeting adjourned at 3:55 p.m.

Respectfully submitted,

Tanya Y. Calahan
Clerk of the Commission